

1 [COUNSEL LISTED ON SIGNATURE PAGE]  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 WAYMO LLC,

14 Plaintiff,

15 v.

16 UBER TECHNOLOGIES, INC.,  
17 OTTOMOTTO LLC; OTTO TRUCKING  
18 LLC,

19 Defendants.

20 Case No. 3:17-cv-00939-WHA

21 **PARTIES' JOINT SUBMISSION  
22 REGARDING SHORT DESCRIPTIONS  
23 FOR ALLEGED TRADE SECRETS**

24 Judge: The Honorable William Alsup

25 Trial Date: February 5, 2018

26 **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**

1 Plaintiff Waymo LLC and Defendants Uber Technologies, Inc. and Ottomotto LLC  
 2 (collectively, “Uber”) hereby inform the Court that the parties met and conferred concerning a list  
 3 of asserted trade secrets to be provided to the jury, including the “subject matter” of the alleged  
 4 trade secrets. (Dkt. 2492.) The parties agreed on short descriptions that can be part of the public  
 5 record for seven of the eight alleged trade secrets, but were not able to reach agreement on the  
 6 description for Alleged Trade Secret (“ATS”) No. 7. In view of that disagreement, the parties’  
 7 positions are as follows.

8 **Waymo’s Position**

9 Waymo requests that the jury binder simply omit the short descriptions altogether and  
 10 refer to the asserted trade secrets by number as originally proposed by the Court (Dkt. 2492), in  
 11 light of the parties’ unfortunate failure to agree on short descriptions for all asserted trade  
 12 secrets. For ATS 7, Waymo proposed the short description, “laser diode positioning,” complying  
 13 with the Court’s guidance that the descriptions be non-argumentative and broad enough to be  
 14 spoken in Court. (1/30/17 H’rg Tr. at 25:25-26:7.) Uber’s sole proposal does not comply with  
 15 the Court’s guidance because it discloses part of the substance of the asserted trade secret. Uber  
 16 refuses to consider any alternatives that do not include the word “[REDACTED]” or a  
 17 synonym. While Uber wants to argue that the concept of “[REDACTED]” in LIDAR  
 18 systems is generally known, these issues are for the jury to decide, not something to litigate in the  
 19 context of the parties’ effort to agree on the contents of the jury binder. Waymo engaged  
 20 repeatedly to seek agreement on this topic without troubling the Court. Uber’s tactical choice to  
 21 use this process to argue the merits of the trade secret rather than heed the guidance of the Court  
 22 should not be rewarded. Waymo’s formulation or the Court’s original version that omits short  
 23 descriptions are both acceptable to Waymo.

24 **Uber’s Position**

25 Uber proposes the short, easy-to-understand description of “[REDACTED]” for  
 26 ATS 7. “[REDACTED]” will allow the jury to easily understand which trade secret is  
 27 being discussed without disclosing Waymo’s alleged trade secret. Uber’s proposal describes the  
 28 “subject matter” of the alleged trade secret (Dkt. 2492), without disclosing Waymo’s claimed

1 trade secret of a *specific* [REDACTED]. Waymo has conceded that it is no longer  
 2 claiming the general concept of [REDACTED] as its trade secret. In its August 1, 2017  
 3 Notice Regarding Trade Secret Narrowing, Waymo narrowed ATS 7 *from* a “[REDACTED]  
 4 [REDACTED],” i.e., the general  
 5 concept of [REDACTED], (Dkt. 25-7 at 6) *to* the specific “[REDACTED]  
 6 [REDACTED].” (Dkts. 1110-1, 335-4 at 4.) Moreover, as the Court acknowledged  
 7 (on the public record), there are “*only* three possibilities” for “diodes on printed circuit boards in a  
 8 LiDAR transmit block”—“overhang, underhang, or exactly flush.” (Dkt. 433 at 13 (public PI  
 9 order).) The April 12, 2017 technology tutorial included public discussion regarding the general  
 10 concept of [REDACTED]. (4/12/17 Hr’g Tr. at 59-60.) The Court should use language  
 11 that a jury can easily understand—like “[REDACTED]”—rather than that which would  
 12 confuse and unnecessarily complicate the alleged trade secret (such as the “laser diode  
 13 positioning” proposed by Waymo, which also describes the subject matter of ATS 13 and 14).

14 **Joint Conclusion**

15 The parties attach as **Exhibit A** the list of asserted trade secrets, including the agreed-upon  
 16 short descriptions and two proposals for ATS 7.<sup>1</sup>

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28 <sup>1</sup> The parties will also email the Court a Microsoft Word version of Exhibit A.

1 Dated: February 3, 2018

MORRISON & FOERSTER LLP

2 By: */s/ Michael A. Jacobs*  
3 MICHAEL A. JACOBS

4 Attorneys for Defendants  
5 UBER TECHNOLOGIES, INC.  
and OTTOMOTTO LLC

6

7 Dated: February 3, 2018

QUINN EMANUEL URQUHART & SULLIVAN, LLP

8

9 By: */s/ Charles K. Verhoeven*  
10 CHARLES K. VERHOEVEN

11 Attorneys for Plaintiff  
12 WAYMO LLC

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17 Pursuant to stipulation, **IT IS SO ORDERED.**

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19 DATED: \_\_\_\_\_, 2018

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## ATTESTATION OF E-FILED SIGNATURE

I, Charles K. Verhoeven, am the ECF User whose ID and password are being used to file this Joint Submission Regarding Short Descriptions for Alleged Trade Secrets. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Michael A. Jacobs has concurred in this filing.

Dated: February 3, 2018

/s/ *Charles K. Verhoeven*

CHARLES K. VERHOEVEN

**EXHIBIT A  
FILED UNDER SEAL**